

REMARKS

Receipt of the Office Action of December 26, 2008 is gratefully acknowledged.

Claims 12 - 22 have been re-examined with the following result: claims 12 - 15, 17, 18, 21 and 22 are finally rejected under 35 USC 103(a) over Gillen in view of Galasso; and claim 16 is finally rejected under 35 USC 103(a) over Gillen in view of Galasso and Moyer.

The art applied is not new to this prosecution. The rejections, however, are. These rejections are respectfully traversed.

Claim 12 has been amended to correct a double recitation, to correct a grammatical error and to add that the control unit is "remote" and that control is effected over the data bus and not internally.

Gillen, now U.S. Patent 6,697,684, discloses a programmable field measuring instrument which prevents unauthorized use of functionalities. An internal control unit is provided which communicates within an external control center via an interface. The instrument is connected to a data bus line. The internal control unit is connected to a nonvolatile memory and to a protection device, which includes a connector mating element with an integrated electronic component which allows authorization examination by the control unit. The integrated electronic component has a micro-controller which prevents unauthorized access to the non-volatile software program memory. The control program is stored in the memory during production of the field instrument and loaded and called up during the initialization of the control unit. The control program comprises a number of variants which are appropriate to realize different functionalities of the field instrument, for example with regard to measurement

signal acquisition, measurement signal evaluation, calibration, etc. A first variant may generate a basic functionality of the field instrument, while a second variant may generate an extended functionality of the field instrument. There is provided **a special software protection device for each variant**, a so-called dongle device, which only activates the corresponding authorized variant that the customer desires and has paid for. Any further variant is disabled. Therefore, the customer needs the correct software protection device in order to run the field instrument properly. On the other hand, the functionality of the field instrument can be changed quite simply by the exchange of the protection device, i.e., the dongle device.

Gillen, therefore, discloses the protection of a control program of a field instrument by the use of a hardware device, called a dongle device. Gillen fails to disclose the protection of the control strategy of a system where a **plurality of filed devices** is connected via a data bus are connected via a data bus to a control unit **in the field instrument** whereby the unauthorized access, i.e., the manipulation of a field instrument can only be initiated by the remote control unit which is connected to the field instrument via the data bus.

Gillen provides no hint of function blocks integrated in field devices in process automation technology and their functionality **in connection with other field devices**, as is claimed in claim 12. Gillen fails to disclose anything regarding function blocks. Gillen fails to disclose checking the authorization of a remote access to the field device or to the function block done by a **remote control station** that tries, without authorization, to make changes in the function block or in the field device and consequently in the whole system.


Neither Galasso, nor any of the other references of record, taken with Gillen, can realistically guide the person skilled in the art to the present invention as now defined in the claims. It is absolutely essential that any reference to be

meaningful in the context of the present invention must, it is respectfully submitted, deal with more than a single field instrument and with a control that is part of the field instrument and controls *only* the single field instrument. It must control more than the single and dedicated field instrument. The references lack this essential feature of the invention.

In view of the foregoing, reconsideration of this application is again respectfully requested, with entry of the present amendment to claim 12 made, and if the application is not allowed, to at least enter the amendment to claim 12 for purposes of appeal.

Respectfully submitted,
BACON & THOMAS, PLLC

Date: February 27, 2009


Felix J. D'Ambrosio
Attorney for Applicant
Registration Number 25,721

Customer Number *23364*
BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314
Telephone: (703) 683-0500
Facsimile: (703) 683-1080

S:\Producer\ljd\CLIENTS\Endress+Hauser Holding GmbH\DAI3002 - PS0014\Sept 4 2008 Resposne.wpd